

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In Re: COOK MEDICAL, INC., IVC	)	
FILTERS MARKETING, SALES	)	
PRACTICES AND PRODUCT	)	
LIABILITY LITIGATION	)	1:14-ml-02570-RLY-TAB
_____	)	MDL No. 2570
	)	
This Document Relates to:	)	
	)	
Tonya Brand,	)	
1:14-cv-06018-RLY-TAB	)	
_____	)	

**ENTRY ON PLAINTIFF’S MOTION TO EXCLUDE OR LIMIT THE EXPERT  
TESTIMONY OF DR. MARK RHEUDASIL**

Dr. Mark Rheudasil is the vascular surgeon who implanted and removed Plaintiff’s Celect IVC filter. Cook designated him as a non-retained expert who will opine, in part, that IVC filters are safe and effective medical devices that prevent pulmonary embolism. Plaintiff objects to this testimony because, she contends, he failed to submit a Rule 26(a)(2)(B) expert report for these opinions.


Dr. Rheudasil has been a vascular surgeon for approximately 30 years. (Deposition of Mark Rheudasil<sup>1</sup> at 13). Over the course of his career, he has placed hundreds of IVC filters, including the Celect. (*Id.* at 24, 54). He used his education, training, and experience to evaluate and treat Plaintiff. (*Id.* at 27, 63-64). As part of his treatment of Plaintiff, Dr. Rheudasil weighed the risks and benefits of placing an IVC

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<sup>1</sup> Dr. Rheudasil’s deposition excerpts are found in Filing Nos. 8554-1, 8554-2, and 8554-3.

filter and recommended placing an IVC in Plaintiff prior to her ALIF surgery based on that evaluation. (*Id.* at 37, 48, 49, 52). His opinion that IVC filters are safe and effective was thus critical to his decision-making. Consequently, he was not required to submit a Rule 26(a)(2)(B) expert report. See *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 833 (7th Cir. 2013) (“[A] treating physician can provide an expert opinion without submitting a written report if the physician’s opinion was formed during the course of the physician’s treatment, and not in preparation for trial.”); *Krischel v. Hennessy*, 533 F.Supp.2d 790, 795 (N.D. Ill. 2008) (finding a treating physician was not required to submit a Rule 26(a)(2)(B) report because he “is testifying about what he saw and did and why he did it, even though the physician’s treatment and his testimony about that treatment are based on his specialized knowledge and training.”). Accordingly, Plaintiff’s motion (Filing No. 8621) is **DENIED**.

**SO ORDERED** this 9th day of November 2018.

  
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RICHARD L. YOUNG, JUDGE  
United States District Court  
Southern District of Indiana

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